



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

RIN 0648-BB42

Groundfish Fisheries of the Exclusive Economic Zone Off Alaska and Pacific Halibut Fisheries;
Observer Program

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notification of availability of fishery management plan amendment; request for comments.

SUMMARY: The North Pacific Fishery Management Council submitted Amendment 86 to the Fishery Management Plan (FMP) for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI) and Amendment 76 to the FMP for Groundfish of the Gulf of Alaska (GOA), (collectively referred to as the FMPs) to NMFS for review. If approved, Amendments 86 and 76 would add a funding and deployment system for observer coverage to the existing North Pacific Groundfish Observer Program (Observer Program) and amend existing observer coverage requirements for vessels and processing plants at 50 CFR 679.50. The new funding and deployment system would allow NMFS to determine when and where to deploy observers according to management and conservation needs, with funds provided through a system of fees based on the ex-vessel value of groundfish and halibut in fisheries covered by the new system. This action is necessary to resolve data quality and cost equity concerns with the Observer

Program's existing funding and deployment structure. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the FMPs, and other applicable law.

DATES: Comments on Amendments 86 and 76 must be received by [insert date 60 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by FDMS Docket Number NOAA-NOAA-NMFS-2011-0210, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>. To submit comments via the e-Rulemaking Portal, first click the "Submit a Comment" icon, then enter NOAA-NOAA-NMFS-2011-0210 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the "Submit a Comment" icon on that line.
- Mail: Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.
- Fax: Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Fax comments to (907) 586-7557.
- Hand delivery to the Federal Building: Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Deliver comments to 709 West 9th Street,

Room 420A, Juneau, AK.

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All Personal Identifying Information (for example, name, address) voluntarily submitted by the commenter will be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Electronic copies of Amendment 86 to the FMP for Groundfish of the BSAI and Amendment 76 to the FMP for Groundfish of the GOA, and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for this action may be obtained from <http://www.regulations.gov> or from the NMFS Alaska Region website at <http://alaskafisheries.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Brandee Gerke, 907-586-7228.

SUPPLEMENTARY INFORMATION: The MSA requires that each regional fishery management council submit any fishery management plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce (Secretary). The MSA also requires that NMFS, upon receiving an FMP amendment, immediately publish a

notice in the Federal Register announcing that the amendment is available for public review and comment. This notice announces that proposed Amendment 86 to the FMP for Groundfish of the BSAI and proposed Amendment 76 to the FMP for Groundfish of the GOA are available for public review and comment.

Amendments 86 and 76 were unanimously adopted by the North Pacific Fishery Management Council in October 2010. If approved by the Secretary, these amendments would add a funding and deployment system for observer coverage to the existing Observer Program and amend existing observer coverage requirements for vessels and processing plants at 50 CFR 679.50. The new funding and deployment system would allow NMFS to determine when and where to deploy observers according to management and conservation needs, with funds provided through a system of fees based on the ex-vessel value of groundfish and halibut in fisheries covered by the new system. These amendments would also add groundfish vessels less than 60 ft. in length and halibut vessels to the Observer Program. Although the North Pacific halibut fisheries are not subject to the amendments, section 313 of the MSA authorizes their inclusion in the new funding and deployment system.

The proposed amendments would divide the existing Observer Program into two observer coverage categories—partial and full. Operations with less than 100 percent observer coverage requirements would be in the partial observer coverage category and operations required to have 100 percent of their operations observer would be in the full observer coverage category. Operations in the full coverage category would continue to contract directly with observer providers to meet their required observer coverage within the existing framework where they pay their actual observer costs directly to the provider. With limited exceptions for

operations with minimal processing history, all vessels designated as catcher/processors and motherships would be in the full coverage category. Catcher vessels would be in the full coverage category while participating in pollock fisheries in the Bering Sea and Rockfish Program fisheries in the GOA. Shoreside processors and stationary floating processors would be in the full coverage category only while participating in Bering Sea pollock fisheries where observers conduct a full census of incidentally-caught Chinook salmon.

The partial coverage category would comprise the restructured funding and deployment system. All catcher vessels fishing for halibut with hook-and-line gear or directed fishing for groundfish would be included in the partial coverage category; except for catcher vessels directed fishing for Bering Sea pollock or participating in the Gulf of Alaska Rockfish Program. All shoreside processors and stationary floating processors would be in the partial coverage category except for processors receiving Bering Sea pollock deliveries. A small number of catcher/processors with a history of minor processing would also be included in the partial coverage category. Operations in the partial coverage category would pay an ex-vessel value-based fee to NMFS, which would be used to fund direct contracts between NMFS and an observer provider(s) to deploy observers in the partial coverage category according to a randomized design. Annually NMFS would release a Deployment Plan outlining the sample design and vessel selection probabilities for the upcoming fishing year. The objective of the randomized sample design is to collect statistically reliable estimates of total catch and catch composition in the partial coverage category fisheries.

The Observer Program has provided the best available scientific information for managing North Pacific groundfish fisheries and developing measures to minimize bycatch in

furtherance of the purposes and national standards of the MSA since 1991. However, the quality and utility of observer-collected data are deficient due to the current structure of procuring and deploying observers in fisheries with less than 100 percent observer coverage requirements.

Under the current program, coverage requirements vary according to vessel length or the quantity of fish processed, and vessels less than 60 ft. length overall (LOA) and vessels fishing for halibut are exempt from coverage. A vessel equal to or greater than 60 ft. LOA, but less than 125 ft. LOA must carry an observer during at least 30 percent of its fishing days in a calendar quarter (30 percent coverage). Vessel owners and operators in the 30 percent coverage category choose when to carry observers, which statistically bias estimates of catch and bycatch.

Under the current program, owners of smaller vessels pay observer costs that are disproportionately high relative to their gross earnings. Operators of vessels with no observer coverage requirements do not contribute to the cost of observer coverage, though they benefit from management based on the observer-data collected. Amendments 86 and 76 would resolve the data quality and cost equity concerns with the existing funding and deployment structure for observers in fisheries with less than 100 percent coverage requirements.

Public comments are being solicited on proposed Amendments 86 and 76 to the FMPs through the end of the comment period (see DATES). NMFS intends to publish in the Federal Register and seek public comment on a proposed rule that would implement Amendments 86 and 76, following NMFS's evaluation of the proposed rule under the MSA. Public comments on the proposed rule must be received by the end of the comment period on Amendments 86 and 76 to be considered in the approval/disapproval decision on Amendments 86 and 76. All comments received by the end of the comment period on Amendments 86 and 76, whether specifically

directed to the FMPs or to the proposed rule, will be considered in the approval/disapproval decision on the amendments. To be considered, comments must be received, not just postmarked or otherwise transmitted, by 1700 hours Alaska local time on the last day of the comment period.

Authority: 16 U.S.C. 773 *et seq.* ; 1801 *et seq.* ; 3631 *et seq.* ; Pub. L. 108–447.

Dated: March 9, 2012

Steven Thur,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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